

1 you're asking us to strike the manual loop
2 qualification that is represented as 93.70 in
3 Exhibit A, and replace it with -- well, I don't know
4 if it's being replaced or being stricken wholesale.

5 MR. PERKINS: Yes, but that was the intent
6 when this document was filed on August 1, but I
7 don't really think we've joined that issue with
8 Verizon. So --

9 MS. DAILEY: Let me say this, Counsel.
10 The commission needs to understand what you're
11 asking us to do, and it's not clear to me.

12 MR. PERKINS: Understood.

13 MS. DAILEY: So what I'm asking you to
14 help me with, on the record here, is explain to the
15 Commission what pricing issues we are being
16 expected -- what prices we are being expected to
17 set. And then I would like Verizon to tell me where
18 the preexisting prices that Cavalier proposes to
19 replace in this arbitration came from. That is my
20 goal.

21 MR. PERKINS: Okay. When Cavalier filed
22 its petition August 1, the prices proposed by

1 Verizon for these -- primarily for these DSL-related
2 C9 issues were the prices -- were not prices that
3 had been approved by the Virginia Commission.

4 Cavalier did not at that point have a cost
5 study from Verizon. Cavalier did not have its own
6 cost study to try to generate different prices for
7 these items.

8 That had been a continuing sort of issue
9 in contention between the parties for several years
10 about which prices should apply primarily to loop
11 conditioning, removal of bridge taps and load coils.

12 MS. DAILEY: Two of the proposed language
13 under nonrecurring charges have to do with removal
14 of bridge taps and removal of load coils.

15 MR. PERKINS: Yes, and those are the two
16 key ones for this issue and probably the only
17 remaining items at issue.

18 MS. DAILEY: So all you're asking the
19 commission to do under --

20 MR. PERKINS: I'm sorry, if I could add
21 one more thing.

22 MS. DAILEY: Sure.

1 MR. PERKINS: After the petition was filed
2 on August 29, the FCC's pricing decision in the MCI,
3 AT&T and Cox arbitrations with Verizon came out. So
4 what -- that for the first time, in essence, put in
5 place or at least established a way to put in place
6 commission-approved prices.

7 What Cavalier has proposed recently to
8 Verizon is to adopt those prices upon their taking
9 effect between AT&T and Verizon, subject to
10 Verizon's rates to appeal or seek reconsideration or
11 so forth, and subject to Cavalier's right to
12 challenge any of those prices because the
13 nonrecurring charges are not yet specified. We
14 don't know exactly what they will be, if Cavalier
15 believes that they're not appropriate.

16 MR. LERNER: Are the two parties in
17 agreement that that's --

18 MR. PERKINS: Cavalier proposed that very
19 recently, so I don't know if Verizon has had a
20 chance to adequately assess it.

21 MS. ZACHARIA: And also, this is not one
22 of the issues that is currently before the

1 commission in this arbitration. It is not one of
2 the issues that the parties put on their initial
3 list after the settlement of issues that would be
4 before the commission in this arbitration, and we're
5 not necessarily in agreement.

6 MR. PERKINS: I don't --

7 MS. DAILEY: I mean, I'm going to weigh in
8 on that. I believe that anything that's stricken
9 and interlineated here with respect to issue C9 is
10 part of this arbitration.

11 MS. ZACHARIA: The parties reached a
12 settlement where they agreed upon a list of issues
13 that would be arbitrated in this matter. What the
14 prices would be going forward, with perhaps a few
15 exceptions that were listed in there, were not --
16 was not an issue that was before -- that was
17 included on that list.

18 MR. PERKINS: I would disagree. I think
19 that the DSL and loop conditioning was listed.

20 MS. ZACHARIA: I said with a few
21 exceptions. What I was trying to say is, the broad
22 issue of what would happen with the AT&T rates for

1 Cavalier --

2 MS. DAILEY: No, I'm only talking about
3 this one issue.

4 MS. ZACHARIA: That's fair, okay. That's
5 fair. I'm in agreement.

6 MS. DAILEY: That's all I'm talking about.

7 MR. PERKINS: From Cavalier's perspective,
8 what's at issue under the DSL is what I said, bridge
9 taps, load coils and the associated, I guess,
10 engineering query and work order charges.

11 MS. DAILEY: Which are set forth where on
12 exhibit --

13 MR. PERKINS: These are on pages 175
14 through 178.

15 MS. DAILEY: If I understand what you just
16 said, you want us -- I mean, what we're being asked
17 to do is to set rates for -- to add rates for bridge
18 taps, load coils and -- I mean, I see everything --
19 between all of Verizon's pricing from page 176 to
20 178 is stricken on this document.

21 MR. PERKINS: Correct.

22 MS. DAILEY: So what exactly are we being

1 asked to do, strike all those -- strike all those
2 prices?

3 MR. PERKINS: Well, what was -- the intent
4 initially was to provide some suggested way to
5 handle this, to substitute prices, say that they're
6 not applicable at all, which was what was suggested
7 in this red line. But what happened was that the
8 pricing decision came out and that we really didn't
9 feel like we should suggest different prices from
10 what would come out of that proceeding, because that
11 would, in essence, ask you to redecide the prices
12 you just decided.

13 But the problem is, we don't have the
14 nonrecurring charges from the AT&T arbitration yet.
15 Those have yet to be generated under the cost model
16 provided by AT&T and MCI.

17 MR. LERNER: Is it fair to say, just the
18 way I am reading this or understand this, is that
19 Cavalier's position is the prices should be the
20 lowest Verizon rate approved by a Public Service
21 Commission within Cavalier's footprint, and
22 Verizon's position is the prices should be the

1 current prices paid by CLECs, possibly subject to
2 the new rates for those same services established in
3 the AT&T arbitration, depending on how you resolve
4 the overall global effect of that?

5 MS. ZACHARIA: That is my reading of where
6 the parties are today.

7 MR. LERNER: Is that your reading?

8 MR. PERKINS: Yes.

9 MS. SHETLER: Can I just ask one
10 clarifying question, just in terms of making sure
11 we're talking about the same thing.

12 In your proposal that's underlined in
13 here, the last clause is "pending the adoption of
14 final rates by the commission."

15 What commission are you talking about? Us
16 or the state? FCC?

17 MR. PERKINS: It probably should say the
18 state corporation commission, or the Federal
19 Communications Commission, acting in its stead.

20 MR. LERNER: Meaning in the AT&T
21 arbitration. AT&T, yes.

22 MR. LERNER: So in other words, your

1 position is that until the rate is established by
2 that, which then may supersede whatever rate is
3 established in here, your position is pay the lowest
4 in the Verizon footprint until that time --

5 MR. PERKINS: In the Cavalier Verizon
6 footprint.

7 MR. LERNER: Your position is, take the
8 Virginia rate until that time.

9 MS. DAILEY: Which, if any, of the rates
10 that Cavalier is proposing here do not currently
11 exist in Virginia?

12 MR. PERKINS: I don't know how to answer
13 that on a categorical basis. I can tell you the
14 specific issue here, and that is we want the
15 Maryland price for load coil removal and loops over
16 18,000 feet.

17 MS. DAILEY: You want the Maryland price,
18 okay. Well --

19 MR. PERKINS: To be blunt.

20 MS. NATOLI: Is that because the Maryland
21 commission has addressed this issue, and they have
22 decided the rate and the Virginia commission hasn't

1 decided the issue, so they haven't decided the rate,
2 and this is just the rate that Verizon charges that
3 they originally negotiated with somebody and then
4 that then became the rate?

5 MR. PERKINS: Negotiated or had approved
6 somewhere else and benchmarked and modified.

7 MS. NATOLI: But what I'm saying is the
8 Virginia commission has never passed on these
9 particular issues, the FCC has not yet passed on it
10 in the context of the AT&T arbitration, but the
11 Maryland commission has, and that's why you want it.

12 MR. PERKINS: Yes.

13 MR. LERNER: What's the Maryland rate?

14 MR. PERKINS: I don't have that in front
15 of me.

16 MS. NATOLI: But that's the lowest rate in
17 the footprint right now.

18 MR. LERNER: I was just kind of curious.

19 MS. NATOLI: So then if somebody else,
20 West Virginia passed a rate, you would take that if
21 that was in your footprint.

22 MR. PERKINS: Yes.

1 MS. NEWMAN: I think he's saying he would
2 take that if that were lower. Correct -- those have
3 been, too, by the New York --

4 MS. NATOLI: But that's not their
5 footprint; is that right?

6 MS. NEWMAN: He wants the lowest rate in
7 the footprint, and New York is higher than --

8 MR. PERKINS: We said Cavalier's
9 footprint.

10 MS. NATOLI: In Cavalier's footprint, they
11 said. Yes, I understand.

12 MS. DAILEY: Verizon is -- I'm just going
13 to ask you to address in your briefing sheet,
14 Verizon has pointed out that costs are determined on
15 a state-by-state basis, and you're going to need to
16 explain to us how we can import a rate from one
17 state to another and adopt that rate.

18 But I guess what I'm -- my -- what I'm
19 sort of wondering finally is if -- well, never mind.
20 I think I'll leave it at that.

21 MR. MAHER: Let me quick just add, also
22 for the briefing on this issue C9, to the extent

1 that the spectrum density mask issue remains an
2 issue among the parties, for the briefs, I would be
3 interested, among other things, in seeing any
4 knowledge as to the implications of the commission's
5 rule regarding spectrum management for advanced
6 services, particularly I'm thinking of rule 51.230
7 and 51.231, again to the extent that the spectral
8 density mask issue remains an issue.

9 MS. SHETLER: Can I add one other thing
10 for Verizon, with respect to the various rates that
11 have been put at issue with regard to loop
12 conditioning, all the ones from pages 175 to 178?
13 Could you please in your briefing clearly specify
14 the source and authority for each rate?

15 MS. ZACHARIA: Yes.

16 MS. SHETLER: Thank you.

17 MS. ZACHARIA: I'll just note that the
18 commission looked at some of these same issues in
19 the 271 case, including whether the Maryland rate
20 specifically should be adopted. And we will include
21 that in our brief.

22 MS. SHETLER: Okay.

1 MR. LERNER: I'm sure you will.

2 (Laughter.)

3 MS. SHETLER: And just to be clear, also
4 in addition to arguing whatever rate Verizon
5 contends should be applied here, I would like both
6 parties to address the issue of the recent FCC
7 arbitration in AT&T and why or why not you believe
8 that should be applicable to these rates.

9 MS. ZACHARIA: To these specific rates.

10 MS. SHETLER: Yes, to the rates that are
11 at issue before the commission. I can make that
12 general. Anytime there's a rate at issue that was
13 addressed in the Virginia -- in the earlier
14 Cox/AT&T/WorldCom arbitration, why or why not that
15 could be applicable here.

16 MR. PERKINS: Did Cavalier ask Verizon to
17 send an update list of the sources of the prices?

18 MS. ZACHARIA: Sure.

19 MR. PERKINS: Thank you.

20 MS. ZACHARIA: I believe it's the same one
21 we produced in the 271 case, but we can send that to
22 you again.

1 MR. PERKINS: It's marked confidential
2 accident, but we can talk about that later.

3 MR. LERNER: Ms. Natoli?

4 MS. NATOLI: Are these rates on Exhibit A
5 right now the rates your current interconnection
6 agreement is subject to?

7 MR. PERKINS: Oh, I don't think so. I
8 think we have our rates spelled out subject to any
9 change by the commission. And these rates are from
10 several different sources. We adopted the MCI metro
11 agreement.

12 MS. NATOLI: Right. But I thoughts rates
13 were -- I thought whatever rates were effective at
14 the time are what governs all the agreements. I
15 thought you always update them so that no CLEC is
16 getting a different rate for the same element.

17 MR. PERKINS: I think we're paying the
18 approved rates. I just don't know if we're paying
19 all of these rates that were proposed in Exhibit A.

20 MS. NATOLI: Oh, I just mean the existing
21 services you're ordering but --

22 MR. PERKINS: Yes.

1 MS. ZACHARIA: I believe again, while we
2 were going through the 271 process, that we sent out
3 a few different industry letters with the rates that
4 we would be charging carriers in Virginia. And
5 again, there may be one or two exceptions since that
6 time, but those should be generally consistent with
7 the ones on schedule A. That's my understanding.

8 MR. LERNER: Okay. That concludes the
9 questioning for issue C9. I guess there's probably
10 testimony to be moved into evidence. The witnesses
11 are mainly new witnesses.

12 MR. PERKINS: Yes. Cavalier will move
13 into evidence as Exhibit C-15 and C-16 the testimony
14 of James Vermeulen, and as Exhibit C-17 the
15 testimony of Kenneth Ko. I believe Ms. Webb's
16 testimony has already been moved.

17 MS. NEWMAN: And Ms. Clayton's testimony
18 has already been moved into evidence, too.

19 MR. LERNER: Okay. It's admitted.

20 (Exhibits C-15, C-16, and C-17
21 received.)

22 MR. LERNER: We'll pick up with issue C-18

1 at 10:30. Off the record.

2 (Discussion off the record.)

3 MR. LERNER: On reconsideration, back on
4 the record, we will go ahead with issue C-18 right
5 now and take a break after that.

6 One thing I note is as to the issues we're
7 going to decide, we'll decide the issues based on
8 the different language from the agreements put
9 before us and the testimony and the issue
10 descriptions and headings, but we're not bound
11 solely by the little heading of the issue that might
12 have been put on it, but taken in full context of
13 what's before us.

14 MS. NEWMAN: You have just referenced, and
15 this may not be the appropriate time, but I just
16 wanted to put it up there for discussion, the
17 contract language. Right now we don't have any
18 contract language in the record, so I think it's
19 something we need to discuss before we go off the
20 record today.

21 MR. LERNER: We will plan to do that.

22 MS. NEWMAN: Thank you.

1 MR. LERNER: Okay. We've got a couple new
2 witnesses.

3 MR. HILDER: Todd Hilder, Cavalier
4 Telephone.

5 MR. TOOTHMAN: Mike Toothman, Verizon.

6 MR. SPENCER: Steven Spencer, Verizon.
7 Whereupon,

8 TODD HILDER,

9 MIKE TOOTHMAN, and

10 STEVEN SPENCER

11 were called as witnesses, and, having first been
12 duly sworn, were examined and testified as follows:

13 MR. LERNER: Mr. Clift, are you a witness
14 on this one as well?

15 MR. CLIFT: Yes.

16 MR. LERNER: And you remain under oath
17 from yesterday.

18 MR. LERNER: Verizon. No questions.
19 Okay.

20 MR. STUBBS: Thank you.

21 EXAMINATION

22 BY MR. STUBBS:

1 Q Mr. Toothman and Mr. Spencer, I suppose
2 since you provided panel testimony, I'll ask a
3 question, and whoever is appropriate, answer, please
4 feel free to do so.

5 First, to get some clarification about
6 terms that were used, for the court reporter, could
7 someone tell me what an LSR means?

8 A (Mr. Toothman) LSR is a local service
9 request. It's the document that a CLEC uses to
10 request services from Verizon.

11 Q Okay. Is an LVR a listing verification
12 report?

13 A (Mr. Toothman) Yes.

14 Q Isn't it true that Verizon must initiate
15 an internal service order to process a CLEC's
16 request from that LSR?

17 A (Mr. Toothman) That's true.

18 Q Isn't it true that some of those service
19 orders are generated manually by Verizon?

20 A (Mr. Toothman) That's true.

21 Q So in effect, there is a reinputting of
22 that LSR data by the Verizon representative who is

1 assigned to work that LSR request?

2 A (Mr. Toothman) If a preponderance of LSRs
3 flows through, what we call flow-through, the
4 service order is automatically created. There is
5 some portion of LSRs that do require manual
6 intervention by a service rep.

7 Q 80 percent of the LSRs flow through, 20
8 percent are inputted manually; isn't that right?

9 A (Mr. Toothman) Well, the 80 percent is
10 the number I think we put in our rebuttal testimony
11 to -- that's our experience on Cavalier directory
12 listing requests. 80 percent of those flow through
13 automatically.

14 Q 20 percent are inputted manually?

15 A (Mr. Toothman) That's correct.

16 Q Now, when that service order is processed,
17 Verizon then responds to the CLEC's LSR by returning
18 a firm order confirmation; isn't that right?

19 A (Mr. Toothman) That's correct.

20 Q That's also called an FOC?

21 A (Mr. Toothman) Correct.

22 Q As well as Verizon also returns a billing

1 completion notification; isn't that right?

2 A (Mr. Toothman) True.

3 Q Also called a BCN?

4 A (Mr. Toothman) True.

5 Q Isn't it true there are circumstances when
6 the listing request that's processed by the Verizon
7 service order will be reflected on the FOC and the
8 BCN?

9 A (Mr. Toothman) Right. What we do is we
10 recap on the confirmation notice and the completion
11 notice the listing information that we used on the
12 service order.

13 That occurs on what we call simple
14 listings, which are basically your straight-line
15 listings. It does not occur on what we call complex
16 listings, which are listings that mainly have
17 captions, such as department store has various
18 departments underneath it. That would not be
19 reflected on the confirmation or the completion.

20 Q Neither would multiple listings; is that
21 right?

22 A (Mr. Toothman) When you say "multiple

1 listings," if you were doing two simple listings on
2 the same LSR, I think they would be returned on the
3 confirmation numbers.

4 Q Now, are caption style listings generally
5 input manually?

6 A (Mr. Toothman) Generally that is correct.
7 The more complex system.

8 Q So if hypothetical ABC company wants to
9 establish their listings so the directory will
10 display the various departments as you described,
11 the CLEC would not know the results of that service
12 order when the FOC and the BCN are returned; isn't
13 that right?

14 A (Mr. Toothman) They would not see the
15 evidence of what was on the service orders, correct.
16 However, if I could continue, after the order
17 completes, you can use -- I'm not sure you can get
18 there or not, but it's what we call directory
19 listing inquiry, that allows you to look into the
20 database and see that listing after it is posted to
21 the database.

22 Q Is that one of the three points where

1 Cavalier could review the accuracy of the listing as
2 referred to in the rebuttal testimony?

3 A (Mr. Toothman) Yes.

4 Q Now, those three points that were listed,
5 I believe it was at page 3, lines 6 to 22?

6 MS. NEWMAN: I'm sorry, direct or
7 rebuttal?

8 MR. STUBBS: I'm sorry, rebuttal testimony
9 at page 3, lines 6 to 22.

10 BY MR. STUBBS:

11 Q Those three points are, if I could
12 generalize or summarize, reports or confirmations or
13 notices or data readouts that are prepared by
14 Verizon; isn't that right?

15 A (Mr. Toothman) Yes.

16 Q Okay. So none of those three points are
17 accessible only to Cavalier for a CLEC -- or a CLEC?
18 They're accessible to both Verizon and the CLEC; is
19 that right?

20 A (Mr. Toothman) That's true.

21 Q So every one of those three points is
22 available to Verizon to check the accuracy of the

1 listing as well; isn't that right?

2 A (Mr. Toothman) At a given point in time,
3 that's true.

4 Q Isn't it true that there is no yellow page
5 specific LVR produced for any CLEC?

6 A (Mr. Toothman) That's true.

7 Q Isn't it true that the LVR which Cavalier
8 and other CLECs receive does not state whether any
9 of those listings produced on the LVR will also be
10 produced in the yellow page directory?

11 A (Mr. Toothman) That's true.

12 Q Isn't it true that the confirmation and
13 billing completion notification will not indicate
14 whether any listing related to that order will be
15 reflected in the yellow pages?

16 A (Mr. Toothman) That's true.

17 Q Isn't it true that the CLEC can use the
18 LVR review to help locate the CLEC's own errors to
19 enable a CLEC to then submit a new LSR to correct
20 that error?

21 A (Mr. Toothman) All right, let me -- the
22 listing verification report captures all the CLEC's

1 listings that are going to appear in a certain
2 directory, and we provide that in electronic format,
3 so it would enable a CLEC to use that format to bash
4 up against its own database of listings to identify
5 any discrepancies.

6 Q And couldn't the ILEC, Verizon, use that
7 same LVR review to locate Verizon's own errors and
8 report that error?

9 A (Mr. Toothman) No, I don't think so. And
10 I think -- referring again to the rebuttal
11 testimony, we brought out several points why that is
12 not practical.

13 The first -- several reasons. I'll start
14 with the fact that a CLEC can request a movement of
15 an end user from another CLEC or Verizon to that
16 CLEC and indicate they want the listings to be
17 transported as is. In other words, the CLEC does
18 not put the directory listings on the local service
19 request, there is no listings on that request. What
20 Verizon does, it goes back and looks at the listings
21 that are currently in the database for another CLEC
22 or for retail and brings those forward.

1 So at that point, we don't have any way to
2 compare what's on an LVR to what Cavalier requested.
3 Basically, what we have is the listings that Verizon
4 has on our database.

5 When you use the term "Verizon error," I
6 leapt to the assumption what you were meaning was an
7 error, meaning that we had put a listing on the LVR
8 that doesn't match what Cavalier requested us to do.

9 We don't always -- I'm kind of reading
10 from my rebuttal testimony, but we don't always have
11 associated with a given listing what LSR created
12 that listing. So if we had an LVR, there's no way
13 for us to practically be able to associate an LSR
14 with that listing. In some cases we can, some cases
15 we cannot.

16 In those cases we can, it's -- the
17 databases are in different periods of archiving,
18 because we get in excess of a million LSRs a month.
19 To be able to retain that volume of data in a format
20 you can readily access it and be able to match a
21 listing to local service request and be able to see
22 what was on that local service request is just not

1 practical.

2 Q Okay. Well, let's assume that there was a
3 purported error, and Verizon, like in the position
4 you're taking, has no -- might take the position
5 there's no way that we can know that this error was
6 not Cavalier's fault. If, in fact, we took the
7 LSRs, as produced by Cavalier, and lined them up as
8 revised against the LVR, and they match up, the LVR
9 does match up to those LSRs as revised, we would
10 know that that was a Cavalier error; isn't that
11 right?

12 A (Mr. Toothman) I was up with you until
13 you said it was Cavalier.

14 Q Yes.

15 A (Mr. Toothman) If the LVR matches up to
16 an LSR, okay, so it's the same information, then,
17 that -- yes, then we created the listing per
18 Cavalier instructions.

19 Q So that would be a Cavalier error; isn't
20 that right?

21 A (Mr. Toothman) If the listing is not
22 correct, right.